

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**PLAINTIFF'S MOTION FOR JUDGMENT AS A MATTER OF LAW**

Plaintiff moves for judgment as a matter of law on the claims and defenses of patent invalidity asserted by Rubber Resources and International Mulch (“defendants”).

The Court is authorized to grant judgment as a matter of law where a “reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue.” *Fed.R.Civ.Proc. 50(a)*. That is the case here. Plaintiff’s patent “enjoys a presumption of validity, that can be overcome only through clear and convincing evidence.” *University of Rochester v. G. D. Searle & Co. Inc.*, 358 F.3d 916, 920 (Fed. Cir. 2004) (citations and internal quotations omitted). There is no clear and convincing evidentiary basis for the jury to find for the defendants on any of the invalidity claims and defenses they have raised. The Court should thus enter judgment as a matter of law on those claims and defenses.

Plaintiff has filed a memorandum of law in further support of this motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The filing attorney certifies that on April 14, 2011, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system.